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ONTARIO

legislative assembly of Ontario
= Committee

Third Report
of
Select Committee
on
THE MUNICIPAL ACT
AND RELATED ACTS

March, 1964

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CONTENTS

	Page
<u>Acknowledgements</u>	v
<u>Members of the Select Committee on The Municipal Act and related Acts</u>	vi
<u>Introduction</u>	106-108
<u>Recommendations</u>	109-122
The Municipal Act	109-110
The Assessment Act	111
The Statute Labour Act	112-113
The Public Parks Act	114-116
The Community Centres Act	114-116
The Parks Assistance Act	114-116
The Municipal Franchises Act	117
The Public Utilities Act	118-122
<u>Conclusion</u>	123

ACKNOWLEDGEMENTS

The Select Committee since filing its Second Interim Report invited the further presentation of briefs and submissions by placing an advertisement in the daily and weekly newspapers of the Province of Ontario in May of 1963. The Committee wishes to thank the municipal councils, local boards, municipal officials, associations and individuals for the thoughtful consideration given to the matters presented in the excellent submissions received.

Recognized authorities on various aspects of municipal legislation and municipal government, the Clerk of the Legislative Assembly, senior civil servants of the Department of Municipal Affairs, the Conservation Authorities Branch of the Department of Lands and Forests, Ontario Parks Integration Board of the Treasury Department, Department of Insurance, Department of Transport, Municipal Roads Division of the Department of Highways and Agricultural and Horticultural Societies Branch of the Department of Agriculture met with the Select Committee on The Municipal Act and related Acts and their assistance is gratefully acknowledged.

The Committee also wishes to thank Mr. James A. Taylor, Q.C., Legal Counsel and Mrs. H. G. Rowan, C.A., Secretary for their assistance and advice.

MEMBERS OF
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

Hollis E. Beckett, Q.C., Chairman York East
Rene Brunelle Cochrane North
Alfred H. Cowling High Park
D. Arthur Evans Simcoe Centre
George E. Gomme Lanark
George T. Gordon Brantford
Ron K. McNeil Elgin
Vernon M. Singer, Q. C. Downsview
Fred M. Young Yorkview

James A. Taylor, Q.C. Legal Counsel to
the Committee
(Mrs.) H. G. Rowan, C.A. Secretary to the
Committee

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The Honourable the
Legislative Assembly of the
Province of Ontario.

Parliament Buildings,
Toronto, Ontario.
March 17th, 1964.

Honourable Members:

The Second Interim Report of the Committee was presented by Mr. Beckett, its Chairman, to the Legislative Assembly of this Province on March 29th, 1963. That Report contained a copy of the motion dated March 27th, 1961 by which the Committee was appointed and a copy of its First Interim Report which was presented to the Legislative Assembly on February 23rd, 1962.

On March 2nd, 1962, the Committee was re-appointed to continue its work with the same membership and same powers and duties.

On April 25th, 1963, on a motion by the Honourable John P. Robarts, Q.C., Prime Minister of Ontario, seconded by Mr. Beckett, it was ordered that the Committee be re-appointed with the same powers and duties as heretofore. Mr. Brunelle was appointed to fill the vacancy created by the resignation of Mr. Belisle.

A provincial election was called for September 25th, 1963, and accordingly the Committee was dissolved along with the dissolution of the Legislative Assembly.

On October 30th, 1963, on motion by the Honourable John P. Robarts, Q.C., seconded by the Honourable J. Wilfrid Spooner it was ordered that a Select Committee be appointed to enquire into and review The Municipal Act of the Province and related Acts, including The Assessment Act, The Department of Municipal Affairs Act, The Local Improvement Act, The Ontario Municipal Board Act and The Planning Act, and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and regulations, making such recommendations as may be necessary for their improvement and

continuing the work of the Select Committee of the preceding Parliament, appointed for the same purposes. The following persons were named to the Committee: Mr. Beckett (Chairman), Messrs. Brunelle, Cowling, Evans, Gomme, Gordon, McNeil, Singer and Young.

An advertisement was inserted in the daily and weekly newspapers throughout the Province in May of 1963 inviting elected members and appointed officials of municipal governments, local boards, commissions, groups of persons and individuals to make submissions to the Committee (See Appendix F).

Preliminary drafts of recommendations have been prepared in regard to The Trees Act, The Highway Improvement Act, The Public Health Act and also further recommendations drafted in connection with The Municipal Act. However, as the present Committee was appointed to continue the work of the Select Committee of the preceding Parliament, only as recently as October 30th, 1963, and the Second Session of the Twenty-Seventh Legislature commenced on January 15th, 1964, there was insufficient time to finalize these recommendations so that they could be included in this report.

In addition the Committee has studied The Department of Municipal Affairs Act, The Ontario Municipal Board Act, The Cemeteries Act, The Conservation Authorities Act, The Highway Traffic Act, The Municipal Corporations Quieting Orders Act, The Municipal Health Services Act, The Ontario Water Resources Commission Act, The Public Libraries Act and The Public Service Works on Highways Act.

The Christmas and New Year vacation period fell within the short time available for Committee work and accordingly only a small number of the persons submitting briefs could be

heard (See Appendices G and H). For this reason, only The Statute Labour Act, The Public Parks Act, The Community Centres Act, The Parks Assistance Act, The Municipal Franchises Act, The Public Utilities Act, several sections of The Municipal Act and one section of The Assessment Act are considered in this report.

THE MUNICIPAL ACT
R.S.O. 1960, C.249
as amended in 1960-61: 1961-62 and 1962-63

RECOMMENDATIONS

Observations: The Committee in its Second Interim Report recommended that Section 56 (2) apply to all municipalities. This present subsection provides that in cities having a population of not less than 100,000 persons, the returning officers and deputy returning officers are appointed on the recommendation of the clerk.

Section 56 (1) provides in part that the council of every local municipality shall appoint a returning officer to hold the nomination for each ward, a deputy returning officer and a poll clerk for each polling place.

Section 56 (5) provides in part that the council may on the recommendation of the clerk appoint election assistants.

Section 58 provides in part that by-laws may be passed by a local municipality for dividing the municipality into polling subdivisions.

The municipal clerk is the returning officer and it is noted that in both provincial and federal elections the returning officer is responsible for the appointment of deputy returning officers, election assistants and the designation of polling subdivisions.

Confusion often develops with the designation of different boundaries for polling subdivisions in federal, provincial and municipal elections. The voters' lists for federal and provincial elections are made up after a door to door enumeration of voters. The municipal voters' list is made up from the assessment roll.

THE MUNICIPAL ACT

Recommendation: That Sections 56 and 58 be amended to provide that the returning officer shall have authority to divide the municipality into polling subdivisions and to appoint deputy returning officers, poll clerks and election assistants.

That the boundaries of polling subdivisions for municipal elections be the same, as near as possible, as the boundaries of polling subdivisions for provincial elections.

That the present method of preparing the voters' lists for provincial and municipal elections be replaced by a system of permanent registration of voters.

That uniform election laws apply as near as possible to municipal and provincial elections and that the co-operation of the federal authorities be solicited with a view of achieving uniformity at all three levels.

THE ASSESSMENT ACT
R. S.O. 1960 C.23
as amended in 1960-61, 1961-62 and 1962-63

RECOMMENDATIONS

SECTION 9

Observations: The Assessment Act only mentions the term retail lumber dealer. This line of business has expanded in recent years and actually includes building materials of many types.

Recommendation: That the basis of calculating business assessment for retail lumber and building materials dealers be 25 per cent.

THE STATUTE LABOUR ACT
R.S.O. 1960, C. 382
as amended in 1962-63

RECOMMENDATIONS

Observations: The Statute Labour Act legislates in regard to two different matters, different in principle and poles apart. The first matter is the subject of the poll tax. The second matter is the subject of statute labour.

The poll tax is a levy of between \$1.00 and \$10.00 upon male persons between the ages of 21 and 60 years, whose real property taxes do not exceed the amount of the tax. With the trend in recent years for municipalities to spend more and more money on services not related to real property the principle of the poll tax may become more and more significant.

Statute labour is the performance of work on roads in organized townships and unorganized areas. Provision is made for the commutation of statute labour. The principle of statute labour has become obsolete with the development and utilization of road building machinery. To perpetuate this anachronism would amount to little more than an exercise in inefficiency and waste.

Recommendation: That the reference to statute labour in the poll tax provisions of The Statute Labour Act be deleted.

That the poll tax provisions be extended to cover females as well as males and be transferred to The Assessment Act.

That statute labour be abolished.

That unorganized areas be incorporated where feasible.

THE STATUTE LABOUR ACT

That the roads in unorganized areas become the responsibility of the Ontario Department of Highways.

That the provincial land tax payable by property owners in unorganized areas be revised to compensate for the abolition of statute labour and the loss of revenue from the commutation thereof.

That The Statute Labour Act be repealed.

THE PUBLIC PARKS ACT
R.S.O 1960, C. 329
as amended in 1961-62

THE COMMUNITY CENTRES ACT
R.S.O. 1960, C. 60
as amended in 1962-63

THE PARKS ASSISTANCE ACT
R.S.O. 1960, C. 285
as amended in 1961-62 and 1962-63

RECOMMENDATIONS

Observations: There is an abundance of legislation in the Province of Ontario pertaining to parks and recreational facilities. This legislation may be found in numerous different statutes and it is administered by almost as many different governmental departments.

The Municipal Act (S. 377, para. 69) gives all municipalities the authority to acquire and maintain parks and recreational facilities and to establish a board of park management. This Act is administered by the Department of Municipal Affairs.

The Public Parks Act is similarly administered by the Department of Municipal Affairs and it also provides for the establishment of a board of park management.

The Community Centres Act is administered by the Department of Agriculture. This Act provides for the granting of aid for the establishment of community centres. A maximum grant of \$5,000.00 or 25 per cent of the cost of the community centre may be made by the Minister. Every community centre is under the management of a community centre board appointed by the municipal council. The same board may manage any number of community centres.

The Parks Assistance Act is administered by the Department of Lands and Forests.

THE PUBLIC PARKS ACTTHE COMMUNITY CENTRES ACTTHE PARKS ASSISTANCE ACT

This Act provides for the granting of assistance up to \$50,000 or 50 per cent of the cost of acquiring and developing a municipal park which will complement a provincial park. A park established under this Act may be managed by a board of park management appointed under The Municipal Act or The Public Parks Act.

The Department of Education Act provides for community programmes which are administered by the community programmes branch of the Department of Education. These programmes may include recreation, camping, athletics and physical education. This Act authorizes municipal councils to appoint recreation committees.

The Department of Travel and Publicity Act provides for the payment of grants to municipal corporations, conservation authorities and councils of bands as defined in the Indian Act (Canada) for the cost and maintenance of museums.

The Public Health Act provides for operation and supervision of swimming pools.

The Athletics Control Act is administered by the Minister of Labour through an Athletics Commissioner.

The Committee did not concern itself with park operations that were outside the scope of its study such as roadside parks administered by the Department of Highways, provincial parks administered by the Department of Lands and Forests, The Niagara Parks Commission under the Department of Labour, The Ontario St. Lawrence Development Commission under the Department of Economics and Development,

THE PUBLIC PARKS ACT

THE COMMUNITY CENTRES ACT

THE PARKS ASSISTANCE ACT

the operations of the Parks Integration Board under the Treasury Department or the activities of Conservation Authorities under the Department of Lands and Forests.

However, the Committee is of the opinion that the municipal authorities would have to possess a great deal of ingenuity, resourcefulness, legal sophistication and dogged determination to clear the underbrush and discover the best path to the development and operation of a parks and recreation programme.

Recommendation: That The Public Parks Act, The Community Centres Act and The Parks Assistance Act be integrated with the appropriate provisions of The Municipal Act (Section 377, para. 69).

That a parks and recreation branch be established under the direction of the Deputy Minister or a Branch Director of the Department of Municipal Affairs.

That all programmes and services afforded to municipalities by the various statutes in regard to parks and recreation be administered by a parks and recreation branch of the Department of Municipal Affairs.

THE MUNICIPAL FRANCHISES ACT
R.S.O. 1960, C. 255

RECOMMENDATIONS

Observations: The effect of The Municipal Franchises Act is to limit the exercise by a municipality of its powers to grant a company the right to construct and operate a utility or transportation system on its streets or to supply the utilities to the corporation or its inhabitants. The limitation imposed is the requirement that the electors approve of the franchise before it is granted. There appears to be no valid reason why certain powers are given to municipalities to grant franchises under The Municipal Act and then restrictions on those powers are imposed by a separate statute.

Recommendation: That the provisions of The Municipal Franchises Act be transferred to The Municipal Act and that The Municipal Franchises Act be repealed.

THE PUBLIC UTILITIES ACT
R.S.O. 1960 C.335
as amended in 1960-61 and 1962-63

RECOMMENDATIONS

Observations: Part I of The Public Utilities Act enables the corporation of a local municipality to acquire, establish, maintain and operate waterworks and the power of expropriation is extended to include the protection of the waterworks and the preservation of the purity of the water supply. The corporation may define a water area and levy a special rate on the rateable property in the area for the cost of the waterwork, its maintenance and management and the cost of the water. It is noted that a municipality has similar powers in connection with sewers pursuant to the provisions of The Municipal Act.

Part II of The Public Utilities Act pertains to municipal public utility works other than waterworks and extends the municipal authority to permit any municipality to produce, procure and supply for its own use and the use of the inhabitants any public utility. Public utility is defined in this Part to mean artificial and natural gas, electrical power or energy and steam or hot water. A municipal corporation may expropriate any land in the municipality for this purpose and has broad rights to lay pipes and place poles, wires and related apparatus and equipment on, under or over highways and with the consent of the owners, on, under or over private property.

Part III of The Public Utilities Act applies to all municipal corporations owning or operating public utilities. The municipal council is given the power to pass by-laws for the maintenance and management of the works and the conduct of its officers and employees connected with them.

The receipts from supplying the public utility are turned over to the treasurer of the municipality after the expense of operation and maintaining it have been deducted. These revenues are placed in a separate account until the capital debt has been

THE PUBLIC UTILITIES ACT

retired and then form part of the general funds of the municipality.

It is in Part III of The Public Utilities Act that provision is made to entrust the control and management of the works to a public utilities commission which is a body corporate and composed of three or five members. The head of the municipality is ex officio a member and the others are elected for a term of two years in the same manner as the head of the council. If the commission functions only in a defined area, then the members are elected by the electors of that area. The commission has all the powers, rights, authorities and privileges conferred by The Public Utilities Act on a municipal corporation.

A majority of the commissioners constitute a quorum and vacancies are filled by council for the unexpired portion of a term. Council fixes the salaries of the commissioners.

The commission must keep separate books of account and a record of its proceedings. These books and records are open to inspection by any person appointed by council for that purpose. The Commission must furnish to council annually a statement of the affairs of each public utility.

The by-law establishing a commission must have the assent of the municipal electors and it cannot be repealed without like assent.

Where the corporation of a city or town has entered into a contract with The Hydro-Electric Power Commission of Ontario for the supply of electrical power or energy, a commission must be established and the assent of the electors is not required.

Part IV of The Public Utilities Act applies to all municipal or other corporations owning or operating public utilities.

THE PUBLIC UTILITIES ACT

Employees or agents of the corporation have free access at all reasonable times, to enter upon the premises to which a public utility is supplied for the purpose, among other things of inspecting, altering or repairing the utility or making a connection.

Where there is a sufficient supply of a public utility, the corporation shall supply all buildings within the municipality, situate upon land lying along the line of any supply pipe, wire or rod, upon the request in writing of the owner, occupant or other person in charge of any such building, but "public utility" does not include sewage works. However, under Section 386 of The Municipal Act cities and towns may place the management of sewage works under a commission established under The Public Utilities Act.

Part V of The Public Utilities Act applies to every company incorporated for the purpose of supplying any public utility. A public utility means water, artificial or natural gas, electrical power or energy, steam or hot water. A company cannot exercise any of its powers within a municipality unless a by-law of the council of the municipality has been passed with the assent of the municipal electors where such assent is required by The Municipal Franchises Act authorizing the company to exercise the power.

Part VI of The Public Utilities Act authorizes an urban municipality, with the assent of the electors, to acquire the works of a company supplying a public utility within the municipality. The method of determining the compensation is also set out. Subject to The Municipal Act, the corporation of any municipality that has power to construct such works and in which the public utility works of a company

THE PUBLIC UTILITIES ACT

are situate, may subscribe for shares or take stock in the company or may loan money to it on mortgage or otherwise or guarantee payment of money borrowed by it. If a municipal corporation holds at least one tenth of the capital stock of the company, the head of the municipality is ex officio a director.

Part VII of The Public Utilities Act provides that a municipal corporation may entrust with the assent of the municipal electors the control and management of a railway, electric railway, a street railway, an incline railway, a bus transportation system or a telephone system or lines to an existing public utilities commission or to a commission to be called "The Public Service Commission of the (naming municipality)".

Part VIII the final Part, of The Public Utilities Act excludes the application of this Act to certain sections of The Power Commission Act and enables all municipalities to pass by-laws, with the approval of the Lieutenant Governor in Council, to prohibit the sale or distribution within the municipality of natural or manufactured gas containing sulphuretted hydrogen.

The function of a public utilities commission is the control and management of one or more public utilities which is only administrative and is actually performed by its staff. The commission is a statutory agent of the municipal corporation and therefore it is the municipal corporation that is responsible for the acts of the employees or servants of the public utilities commission. The municipal corporation provides the funds for the capital works. Agreements with the Ontario Water Resources Commission and The Hydro-Electric Power Commission of Ontario are made with the local municipal corporation. It is the

THE PUBLIC UTILITIES ACT

local municipal council that plans its municipality and through the machinery of the official plan and the zoning by-laws determines not only the nature of the development of the municipality but also the phasing or sequence of development. The capacity and location of public utilities are therefore determined by such matters as planned population densities, land use and other criteria under the jurisdiction of the local council. There appears to be no reason why the administration of a public utility should not be carried out by a department of the municipal corporation. Such a step would also eliminate the duplication of staff such as accounting personnel, and vehicle maintenance and capital equipment connected therewith.

Recommendation: That the functions of a public utilities commission be performed by the local municipal council or a committee thereof.

That the powers given to local municipalities and restrictions imposed thereon by The Public Utilities Act be integrated where possible with the provisions of The Municipal Act relating to similar subject matter.

That the powers given to companies owning or operating public utilities and the restrictions imposed thereon be transferred to The Municipal Act (See also recommendations - The Municipal Franchises Act, page 117).

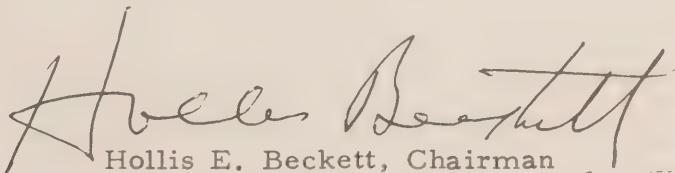
That the Public Utilities Act be repealed.

That The Power Commission Act of Ontario, The Municipal Act and related Acts having reference to public utilities commissions be amended to conform with the foregoing recommendations.

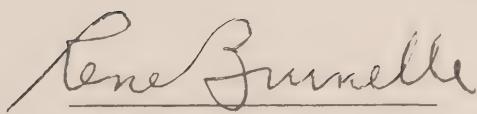
The Committee wants to complete in final form the draft of its recommendations in regard to The Trees Act, The Highway Improvement Act, The Public Health Act and its further recommendations in regard to The Municipal Act, but before doing so it feels that it should give all the persons who have submitted briefs an opportunity to appear. The Committee also wants to make recommendations in respect to the numerous other Statutes presently under study.

The Members of the Committee in examining the matters brought to their attention have acquired considerable knowledge of the general body of municipal law under which municipalities operate. This has greatly increased their ability to assess the merits of the present municipal structure and to evaluate the worth of any proposed revision to the system of municipal government. The Committee requests that the terms of reference specifically mention the making of recommendations for the improvement of the municipal structure and system of municipal government.

The Committee respectfully submits this Third Report with the prayer that it be re-appointed to complete its task.

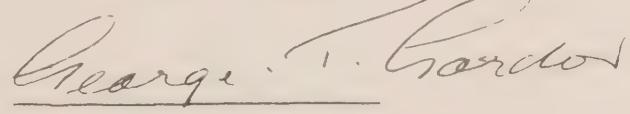


Hollis E. Beckett, Chairman



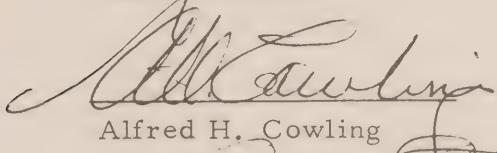
Rene Brunelle

Rene Brunelle



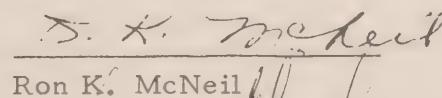
George T. Gordon

George T. Gordon



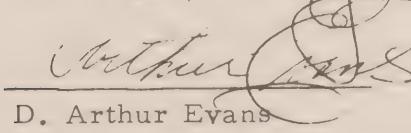
Alfred H. Cowling

Alfred H. Cowling



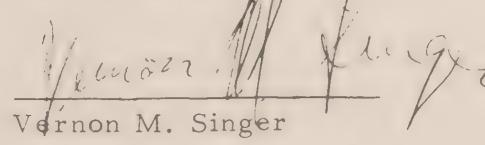
Ron K. McNeil

Ron K. McNeil



D. Arthur Evans

D. Arthur Evans



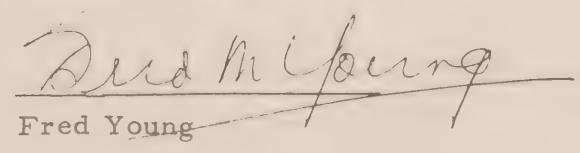
Vernon M. Singer

Vernon M. Singer



George E. Gomme

George E. Gomme



Fred Young

Fred Young

APPENDIX

CONTENTS

Appendix

F Advertisement, May, 1963

G Written Submissions from March 1963 to March 1964

H Attendances from March 1963 to March 1964



ONTARIO
LEGISLATIVE ASSEMBLY

Select Committee on The Municipal Act and related Acts

The Select Committee appointed by the Legislative Assembly of the Province of Ontario "... to enquire into and review The Municipal Act of the Province and related Acts, including The Assessment Act, The Department of Municipal Affairs Act, the Local Improvement Act, The Ontario Municipal Board Act and The Planning Act, and the regulations made thereunder, for the purposes of modernizing, consolidating and simplifying such Acts and regulations and making such recommendations as may be necessary for their improvement.", has resumed public hearings in Toronto.

Elected members and appointed officials of municipal governments, local boards, commissions etc., groups of persons and individuals are invited to present submissions pertaining to the legislation applicable to municipal government.

Hollis E. Beckett, Q.C., M.P.P.,
Chairman.

Mrs. H. G. Rowan, C.A.,
Secretary,
Box 105,
Parliament Buildings,
Toronto. (Telephone 365-2804)

WRITTEN SUBMISSIONS
MADE TO
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

From March, 1963 to March, 1964

(Appendix D continued)

Municipalities

Calvert, Township of
Georgina, Township of
Kapuskasing, Town of
Ottawa, City of
Simcoe, County of
Toronto, City of
Widdifield, Township of
York, Township of

Local Boards and Commissions

City of Toronto Planning Board
Galt and Suburban Planning Board
Kitchener Planning Board
Niagara Falls and Suburban Area Planning Board
Oakville Planning Board

Private Organizations and Individuals

Canadian General Electric Company Limited
Community Planning Association of Canada, Ontario Division
Heit, Dr. Murray A.
Ontario Parks Association
Ontario Retail Lumber Dealers Association Inc., The
Ontario Teachers' Federation
Petroleum Association of Ontario, The
Scarborough and Associated Farmers Association
Smith, Archie G.
Sturgess, Mrs. Beulah
Town Planning Institute of Canada, Central Ontario Chapter

Private Organizations and Individuals (Continued)

Trust Companies Association of Canada, The, Ontario Section
Wallace, S.J.C.
Webster, J.H.
Wilson, R.C.G.
York County Federation of Agriculture

ATTENDANCES
UPON THE
SELECT COMMITTEE ON THE MUNICIPAL ACT
AND RELATED ACTS

From March, 1963 to March, 1964

(Appendix E continued)

Municipality

Municipality of Metropolitan Toronto, Mr. T. W. Thompson,
Parks Commissioner

Private Organizations and Individuals

Canadian General Electric Company Limited
Community Planning Association of Canada, (Ontario Division), The
Fyfe, Dr. Stewart
Ontario Parks Association
Petroleum Association of Ontario, The
Trust Companies Association of Canada, The

